DOCUMENT RESUME

ED 382 530 SO 025 039

TITLE	Antidote: Civic Responsibility. Maryland Law.
INSTITUTION	Phi Alpha Delta Law Fraternity International, Washington, DC.
SPONS AGENCY	Department of Justice, Washington, D.C. Office of Juvenile Justice and Delinquency Prevention.
PUB DATE	93
CONTRACT	93-JS-CX-005
NOTE	18p.; For related lesson materials, see ED 372 024. For other state supplements, see SO 025 022-066.
AVAILABLE FROM	Phi Alpha Delta Public Service Center, 1511 K Street, N.W., Suite 611, Washington, DC 20005.
PUB TYPE	Guides - Classroom Use - Instructional Materials (For Learner) (051) -- Guides - Classroom Use - Teaching Guides (For Teacher) (052)
EDRS PRICE	MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*Citizenship Education; *Constitutional Law; *Criminal Law; Drug Education; *Drug Legislation; High Schools; Illegal Drug Use; Intermediate Grades; Junior High Schools; *Law Related Education; Middle Schools; Resource Materials; Social Studies; State Legislation
IDENTIFIERS	*Maryland; Phi Alpha Delta Law Fraternity

ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Maryland state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED 382 530

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

This document has been reproduced as received from the person or organization originating it.

Minor changes have been made to improve reproduction quality.

Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL IN OTHER THAN PAPER COPY HAS BEEN GRANTED BY

JACK HANNA

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)"

Antidote: Civic Responsibility

Maryland Law

Phi Alpha Delta Public Service Center
• 1511 K Street, NW • Suite 611 • Washington, DC 20005•
• 202-638-2898 • fax 202-638-2919 •

CG 025 039

BEST COPY AVAILABLE

Lesson 1

1. **Has Aimee violated any State laws? Have her parents?**

There is presently no law which makes a minor liable for an unintentionally dangerous act toward another minor. However, if it is found that the girls' parents are consistently putting the baby in jeopardy by allowing 10-year-old Aimee to babysit, they may be guilty of child neglect or abuse. 'Neglect' is defined under Md. Code Ann., Fam. Law § 5-701 (1993) as "the leaving of a child unattended or other failure to give proper care and attention to a child by the child's parents, guardian, or custodian under circumstances that indicate that the child's health or welfare is significantly harmed or placed at risk of significant harm." 'Abuse' is defined under the same section as "the physical injury of a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child's or welfare is significantly harmed or placed at risk of significant harm." The potential for harm to the child is sufficient to bring charges of abuse or neglect; the court need not wait until the child suffers some injury before determining that he is neglected, or for that matter abused. In re Dustin, T., 93 Md. App. 726, 614 A.2d 999 (1992), cert. denied, 329 Md. 480, 620 A.2d 350 (1993).

2. **Does State statute allow 17-year-old Tyrell to drink a glass of wine with his dinner without his parents' consent?**

No, Tyrell may not drink the wine without his parents' consent. The legal drinking age in Maryland is 21, and it is illegal to sell any alcoholic beverages to a person under 21 years of age. Md. Ann. Code art. 2B, § 118 (1993). Under Md. Ann. Code art. 27, § 401A(a) (1993), "a person may not furnish alcohol to anyone under 21"; however, under § 401A(b), "if the individual furnishing the alcoholic beverage and the individual to whom the beverage is served are members of the same immediate family, and the beverage is furnished and consumed in a private residence," the code does not apply. This means in Maryland an underage person like Tyrell can drink in the privacy of his own home if the alcoholic beverage is furnished his parents.

3. **Is Maria violating any law when she tells her roommates whom to call to buy marijuana?**

Under Md. Ann. Code art. 27, § 287 (1993), it is "unlawful for any person to possess...any controlled dangerous substance, unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice." Although Maria does not have actual possession of the marijuana, she may be considered to have constructive possession in violation of

this section. In addition, her actions could constitute conspiracy if she is acting in concert with the dealer. The law states "any person who conspires to commit any offense defined in this subheading [health -- controlled dangerous substances] is punishable by imprisonment or fine or both, which may not exceed the maximum prescribed for the offense." Md. Ann. Code art. 27, § 290 (1993).

If Maria is participating in a drug conspiracy, she may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug control statutes.

4. **Have Adam and Alex broken any laws other than those against drinking and fighting?**

The twins are guilty of disorderly intoxication, defined as being intoxicated and endangering the safety of another person or property or causing a public disturbance, which is prohibited under Md. Ann. Code art. 2B, § 207 (1993). Depending on the circumstances of the brawl, Adam and Alex may have committed or been victims of an assault, a common-law offense in Maryland. They may also be guilty of assault with intent to maim, disfigure or disable. Any such offender, and any person aiding or abetting such offender, is guilty of a felony and subject upon conviction to a prison term of up to 15 years. Md. Ann. Code art. 27, § 386 (1993).

Even if they did not start the fight, however, the twins may be charged with manslaughter in Joe's death. Maryland considers manslaughter a common-law offense and a felony. State v. Gibson, 4 Md. App. 236, 242 A.2d 575 (1968), aff'd, 254 Md. 399, 254 A.2d 691 (1969). The state recognizes two categories of manslaughter: voluntary and involuntary, with voluntary manslaughter being an intentional homicide committed in sudden heat of passion caused by reasonable provocation, and involuntary manslaughter an unintentional killing committed without malice in the course of doing some unlawful act not amounting to a felony. Rolfes v. State, 10 Md. App. 204, 268 A.2d 795 (1970). Since the twins were engaged in unlawful behavior less than a felony -- disorderly intoxication or assault -- and apparently did not intend to kill Joe, involuntary manslaughter is the most likely charge. The penalty for manslaughter is imprisonment of up to 10 years, or in the discretion of the court a fine of up to $500 or a jail term of not more than two years, or both. The twins' intoxication cannot be used as a defense against any charges; generally, voluntary intoxication is no defense to criminal charges. Teves v. State, 33 Md. App. 195, 364 A.2d 593, cert. denied, 279 Md. 685 (1976).

5. **Has Jose violated any State law even though he is not drinking? Has Carlos or TJ violated any State law?**

Even though he is not drinking, Jose is probably breaking the law. Md. Ann. Code art. 27, § 400A (1993) states: "It is unlawful for any person under the age of 21 years to have in his possession, or under his charge or control, any alcoholic beverage" [emphasis added] except in the course of lawful employment. Because he is the driver of the car, Jose may be considered to have charge or control of the vehicle's contents, including his friends' alcoholic beverages. He is therefore violating this statute. TJ is only 18 years old and by drinking is clearly violating this statute.

No matter how TJ obtained the alcohol, it was done illegally, since he may not legally purchase or consume any alcoholic beverages. Md. Ann. Code art. 2B, § 118 (1993). If he purchased the alcohol, he must have lied about his age or used a fake ID; either way, he would be violating Md. Ann. Code art. 27, §§ 400, 402 and 403 (1993), which prohibit knowingly or willfully misrepresenting age to obtain alcoholic beverages from a licensed seller or to induce any person engaged in the sale of alcoholic beverages to illegally sell or furnish alcohol. If Carlos bought the alcohol for TJ, he would be violating Md. Ann. Code art. 27, § 401 (1993), which prohibits obtaining any alcoholic beverages for consumption by any person under the age of 21, knowing that the person is under 21; he would also be violating Md. Ann. Code art. 27, § 401A (1993), which prohibits furnishing alcohol to anyone under 21, knowing that the person is under 21. For such action, Carlos is liable under Md. Code Ann., Cts. & Jud. Proc. § 3-831 (1993), which states: "It is unlawful for an adult wilfully [sic] to contribute to, encourage, cause or tend to cause any act, omission, or condition which results in a violation, renders a child delinquent, in need of supervision, or in need of assistance." An adult convicted under this section is subject to a fine of up to $2,500, a prison term of up to three years, or both.

In addition, Carlos and TJ are guilty under Md. Ann. Code art. 2B, § 211 (1993), which states: "A person may not drink any alcoholic beverage...while on public property, unless authorized by a government entity that has jurisdiction over the property...or in any parked vehicle [in listed places such as public parking areas]." Md. Ann. Code art. 2B, § 214 (1993) contains similar provisions for specified counties. Because roads and highways fall under the category of public property, Carlos and TJ are guilty if the car is being driven; they are also guilty if it is parked anywhere except on private property.

6. **Is Dr. Melrose committing any violation by prescribing painkillers without conducting an examination or determining need?**

Dr. Melrose is violating not only state but federal law. It is not professional practice for a physician to prescribe controlled substances without verifying by physical

examination the patient's need for them. Dr. Melrose's behavior violates Md. Ann. Code art. 27, § 288(c) (1993), which states: "It is unlawful for any practitioner to prescribe, administer, manufacture, distribute, dispense, or possess any controlled dangerous substance or controlled paraphernalia except in the course of his regular professional duties, and in conformance with both the provisions of this subtitle and the standards of his particular profession...." Such violation is punishable by a civil fine of up to $50,000 and, if committed knowingly or intentionally, is considered a misdemeanor and punishable by imprisonment for up to two years or a fine of up to $100,000, or both. Similarly, under U.S. law 21 U.S.C.A. § 829 (West 1993), a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional practice. U.S. v. Varma, 691 F.2d 460 (1982); U.S. v. Jamieson, 605 F.Supp. 119 (1985).

Since his prescription is not valid under the circumstances, Dr. Melrose is also violating Md. Ann. Code art. 27, § 286 (1993), which prohibits unlawfully dispensing any controlled dangerous substance, and § 287 (1993), which prohibits the unlawful possession or administering to another of any controlled dangerous substance. He is also violating Md. Ann. Code art. 27, §§ 285 and 300 (1993), which prohibit dispensing certain drugs without prescription.

Dr. Melrose's patients, if they do not provide to him a bona fide reason for needing the painkillers, may also be breaking the law. Because Dr. Melrose's prescription is not valid, his patients are violating Md. Ann. Code art. 27, § 287 (1993), which prohibits the unlawful possession of any controlled dangerous substance. Federal law 21 U.S.C.A. § 843 (West 1993) prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

7. **Is Danielle violating any law by taking only one or two pills from someone else's prescription?**

Danielle is violating several state and federal laws. First, she is stealing. Md. Ann. Code art. 27, § 342 (1993) states: "A person commits the offense of theft when he willfully or knowingly obtains control which is unauthorized or exerts control which is unauthorized over property of the owner and has the purpose of depriving the owner of the property; or willfully or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or uses, conceals or abandons the property knowing the use, concealment, or abandonment probably will deprive the owner of the property." The penalty for theft depends upon the value of the stolen items; if the value is greater than $300, she is guilty of a felony and must return the goods or make restitution, and be fined not more than $1,000, or be imprisoned for not more than 15 years, or both. If the pills

are worth less than $300, she is guilty of a misdemeanor and must restore the property or make restitution, and be fined not more than $500, or be imprisoned for not more than 18 months, or both.

More seriously, Danielle is violating state and federal drug control statutes such as Md. Ann. Code art. 27, § 286 (1993), which prohibits unlawfully dispensing any controlled dangerous substance, and § 287 (1993), which prohibits the unlawful possession of any controlled dangerous substance and the obtaining of such substances by fraud, deceit, misrepresentation or subterfuge. The court could view the manner in which she obtained the pills as subterfuge. She is also violating Md. Ann. Code art. 27, §§ 285 and 300 (1993), which prohibit dispensing certain drugs without prescription. In addition, she is violating U.S. law under 21 U.S.C.A. § 843 (West 1993), which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge, and 21 U.S.C.A. § 844 (West 1993), which prohibits simple possession of a controlled substance unless such substance was obtained by prescription. The seriousness of her crime under these drug control codes will depend on the type of drug she takes from the customers' prescriptions and how she uses them.

8. **Is Renee breaking state law even though she is not selling the drugs herself?**

Even though she is not selling the drugs directly, Renee is violating several state and federal laws. First, she is violating Md. Ann. Code art. 27, § 286 (1993), which prohibits unlawfully dispensing any controlled dangerous substance, and § 287 (1993), which prohibits the unlawful possession of any controlled dangerous substance. She is also violating Md. Ann. Code art. 27, §§ 285 and 300 (1993), which prohibit dispensing certain drugs without prescription.

In addition, by using her young daughter to deliver drugs, she is violating Md. Ann. Code art. 27, § 286C (1993), which states: "A person may not hire, solicit, engage, or use a minor, in any manner, for the purpose of distributing, or delivering, on behalf of that person, any controlled dangerous substance...unless the manufacturing, delivery or distribution has a lawful purpose." Such violation constitutes a felony and is punishable by a prison term of up to 20 years or a fine of up to $20,000, or both. By causing her daughter to commit an illegal act, Renee is violating Md. Code Ann., Cts. & Jud. Proc. § 3-831 (1993), which states: "It is unlawful for an adult wilfully [sic] to contribute to, encourage, cause or tend to cause any act, omission, or condition which results in a violation, renders a child delinquent, in need of supervision, or in need of assistance." An adult convicted under this section is subject to a fine of up to $2,500, a prison term of up to three years, or both.

By distributing the drugs at the school, Renee is violating Md. Ann. Code art. 27, § 286D (1993), which prohibits distribution, dispensing or possession of a controlled substance in, on, or within 1,000 feet of any school. This constitutes a felony and carries a prison term of not more than 20 years, or a fine not more than $20,000, or both.

Renee's treatment of her daughter is also likely to constitute child neglect or abuse under Maryland law. 'Neglect' is defined under Md. Code Ann., Fam. Law § 5-701 (1993) as "the leaving of a child unattended or other failure to give proper care and attention to a child by the child's parents, guardian, or custodian under circumstances that indicate that the child's health or welfare is significantly harmed or placed at risk of significant harm." 'Abuse' is defined under the same section as "the physical injury of a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child's or welfare is significantly harmed or placed at risk of significant harm." Carrying illegal drugs or money certainly places such a young child at risk of harm. The potential for harm to the child is sufficient to bring charges of abuse or neglect; the court need not wait until the child suffers some injury before determining that he is neglected, or for that matter abused. In re Dustin, T., 93 Md. App. 726, 614 A.2d 999 (1992), cert. denied, 329 Md. 480, 620 A.2d 350 (1993). Renee risks losing custody of her daughter under Md. Code Ann., Fam. Law § 5-709 (1993), which grants local child welfare or police departments the power to remove a child temporarily, without prior approval of the juvenile court, from a home in which they have "probable cause to believe that a child is in serious, immediate danger." This could lead to permanent loss of custody.

Renee is also violating federal drug control statues such as 21 U.S.C.A. § 841 (West 1993), prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense such substance; 21 U.S.C.A. § 844 (West 1993), prohibiting simple possession of a controlled substance; and 21 U.S.C.A. § 861 (West 1993), prohibiting the knowing and intentional use of any person under 18 years of age to violate any federal drug control provision.

In addition, Renee could receive heavier sentencing under federal statutes. Under 21 U.S.C.A. § 859 (West 1993), the distribution of a controlled substance to a person under 21 years of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860 (West 1993), which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds, or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 (West 1993) also provides for increased sentences in cases of abuse of position of

trust, as in a drug trafficking defendant's involvement of her young daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

9. **Did Jim violate any law other than those regarding controlled substances?**

Besides violating state and federal drug control statutes, Jim and Andre are both violating Md. Ann. Code art. 27, § 287 (1993), which, in addition to prohibiting unlawful possession of any controlled dangerous substance, prohibits administering any such substance to another person as well as possession or distribution of controlled drug paraphernalia, including hypodermic syringes or needles. Such violation constitutes a misdemeanor and is punishable by a prison term of up to four years, a fine of up to $25,000, or both.

The Maryland legislature has not yet created any law dealing specifically with transmission of the HIV virus in such a situation nor has it arisen in the state courts. Under the Model Penal Code, however, such behavior could constitute simple or aggravated assault or the attempt thereof, or reckless endangerment; under certain extreme situations, it could be construed as murder. See Gene Schultz, AIDS: Public Health and the Criminal Law, 7 St. Louis U. Pub. L. Rev. 65 (1988); Roger N. Braden, AIDS: Dealing With the Plague, 19 N. Ky. L. Rev. 277 (1992). In some cases, it has been suggested that the HIV virus provides a deadly weapon. Cf. Brock v. State, 555 So.2d 285 (Ala. Crim. App. 1989).

Andre may be charged with assault with intent to murder and second-degree murder for his role in Jim's death by overdose. Md. Ann. Code art. 27, §§ 12, 411 (1993). Murder, unlawful homicide with malice aforethought, is a common-law offense in Maryland, divided by statute into two degrees carrying different penalties. Lindsay v. State, 8 Md. App. 100, 258 A.2d 760 (1969), cert. denied, 257 Md. 734 (1970). All murder not perpetrated by means of poison, or by lying in wait, or by any kind of wilful, deliberate and premeditated killing is deemed second-degree murder. Md. Ann. Code art. 27, § 411 (1993). To raise homicide to the level of felonious homicide it is necessary to establish that the defendant intentionally did the act that resulted in the death and that he did so without justification or excuse. Smith v. State, 41 Md. App. 277, 398 A.2d 426, cert. denied, 284 Md. 748 (1979). Thus, Andre's intentional act in administering the heroin to Jim constitutes the basis for assault and second-degree murder charges. Assault with intent to murder is a felony offense punishable by a prison term of two to 30 years; the penalty for second-degree murder is imprisonment of up to 30 years. Md. Ann. Code art. 27, §§ 12, 412 (1993). Andre's own state of drug intoxication cannot be used as a defense against these charges; voluntary intoxication is not a defense to second-degree murder. McCord v. State, 15 Md. App. 63, 289 A.2d 7, cert. denied, 266 Md. 739 (1972).

10. **Has the bartender or the owner at Bulldog's Bar and Grill violated any law?**

Under Md. Ann. Code art. 2B, § 118(2) (1993), "[a] licensee..., or any of the licensee's employees, may not sell or furnish any alcoholic beverages at any time...to any person who, at the time of such sale or delivery, is visibly under the influence of any alcoholic beverage." Given Su's apparently intoxicated behavior, the bartender cannot lawfully sell her the drink and both he and the owner of the bar could be held in violation of the law.

Lesson 2

CRIMINAL JUSTICE STATISTICS: DRUG AND ALCOHOL RELATED OFFENSES UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990 A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

BEST COPY AVAILABLE

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• imprisonment for 5 to 20 years, and/or • fine up to $25,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• imprisonment for up to 5 years, and/or • fine up to $15,000
First Offense: Codeine - Possession - 200 mg	• imprisonment for up to 5 years, and/or • fine up to $15,000
Second Offense: Marijuana - Possession - 50 kg	• imprisonment for 2 to 5 years, and/or • fine up to $15,000
Third Offense - Methamphetamine - Possession - 100 g	• imprisonment for 2 to 5 years, and/or • fine up to $15,000

Cite: Md. Ann. Code Art. 27 § 286.

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

Lesson 6 & 7

1. **What does DWI stand for?**

Driving while intoxicated. §21-902(a) a person may not drive while intoxicated.

2. **What does DUI stand for?**

Driving under the influence. §21-902(b) a person may not drive or attempt to drive while under the influence.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

DWI is more serious than DUI, which is only a misdemeanor in Maryland.

4. **What are the penalties for being convicted of DWI? DUI?**

The following are penalties for DWI (§27-101):

CONVICTION	PENALTY
first	• fine of not more than $1000, and/or • jail for not more than 1 year
second*	• fine of not more than $2000, and/or • jail for not more than 2 years, and • license suspension for not more than 120 days
third & subsequent*	• fine of not more than $3000, and/or • jail for not more than 3 years, and • license suspension for not more than 120 days

* If a subsequent conviction occurs within a three year period of another conviction under § 21-902(a) a mandatory minimum penalty of 48 consecutive hours in jail and at least 80 hours of community service will be imposed.

The following are penalties for DUI (§27-101), which is a misdemeanor:

CONVICTION	PENALTY
first^	• fine of not more than $500, and/or • jail for not more than 2 months • license suspended for 60 days
second^	• fine of not more than $500, and/or • jail for not more than 1 year, and • license suspended for 60 days

^ If two violations occur within a three year period, one's license can be suspended for 120 days.

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Section 16-205.1 states that if one drives on the highways of Maryland s/he deems to have given consent to a breathalyzer. If one refuses the penalties are for a first offense, license suspension for 120 days; for a second or subsequent offense, license suspension for one year.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated.**

Under §21-902 one's BAC must be 0.10 to be legally intoxicated and 0.07 to be under the influence.

7. **The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?**

False. Maryland does not lower the BAC for persons under 21.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

False. Under §21-903 a person may not possess or consume an alcoholic beverage while driving a motor vehicle on a highway.

BEST COPY AVAILABLE

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the **March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,**

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only
IL: minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.

BEST COPY AVAILABLE